

House Bill 555 (AS PASSED HOUSE AND SENATE)

By: Representative Shaw of the 176th

A BILL TO BE ENTITLED
AN ACT

1 To create a board of elections and registration for Clinch County and provide for its powers
2 and duties; to provide for definitions; to provide for the composition of the board and the
3 selection and appointment of its members; to provide for the qualification, terms, and
4 removal of members and for filling vacancies; to provide for oaths and privileges; to provide
5 for meetings, procedures, and vacancies; to relieve certain officers of certain powers and
6 duties and provide for the transfer of functions to the newly created board; to provide for
7 certain expenditures of public funds; to provide for compensation of members of the board
8 and personnel; to provide for officers and equipment; to provide for the board's performance
9 of certain functions and duties for certain municipalities; to provide for related matters; to
10 provide for submission for preclearance under Section 5 of the federal Voting Rights Act of
11 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Pursuant to Code Section 21-2-40 of the O.C.G.A., there is created the Clinch County Board
16 of Elections and Registration, herein referred to as "the board." The board shall have the
17 powers, duties, and responsibilities of the judge of the probate court of Clinch County under
18 Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," and the powers, duties,
19 and responsibilities of the board of registrars of Clinch County under Chapter 2 of Title 21
20 of the O.C.G.A., the "Georgia Election Code."

21 **SECTION 2.**

22 The terms "election," "elector," "political party," "primary," and "public office" shall have
23 the same meanings as set forth in Chapter 2 of Title 21 of the O.C.G.A., the "Georgia
24 Election Code," unless otherwise clearly apparent from the text of this Act, and the term

1 "commissioners" means the board of commissioners of Clinch County, and "county" means
2 Clinch County.

3 **SECTION 3.**

4 (a) The board shall be composed of not less than three nor more than five members, each of
5 whom shall be appointed as provided in this section.

6 (b)(1) One member of the board shall be appointed by the governing authority of Clinch
7 County and shall serve as chairperson of the board during his or her term of office. The
8 chairperson shall chair all meetings of the board and be the spokesperson for the board.

9 (2) The remaining board members shall be appointed by the governing authority of
10 Clinch County from a list of ten nominees submitted by the active political parties of
11 Clinch County. The governing authority may choose to reject the list of nominees and,
12 in such cases, such political party or parties shall submit a list of ten different nominees
13 from whom the governing authority shall appoint the remaining board members.

14 (3) Should there be no active political party or parties in Clinch County at the time
15 designated to make such appointments, the Grand Jury shall submit a list of 20 nominees
16 to the governing authority from which said appointments shall be made.

17 (4) All appointments to the board shall be promptly certified by the governing authority
18 of Clinch County to the clerk of the Superior Court of Clinch County and the election
19 board shall take no official action until such certification is made.

20 (c) In making the initial appointments to the board, the members shall be appointed by the
21 governing authority of Clinch County not later than the thirtieth day of the month following
22 the month in which this Act is approved by the Governor or becomes law without such
23 approval. The governing authority shall designate two of the initial appointees to serve a
24 term beginning on the first day of the second month following the month in which this Act
25 becomes law and ending on December 31, 2008. Successors to such members shall
26 thereafter be appointed to serve a term of office of four years beginning January 1, 2009.
27 The other appointees shall serve terms beginning on the first day of the second month
28 following the month in which this Act becomes law and ending on December 31, 2010.
29 Successors to such members shall thereafter be appointed to serve terms of office of four
30 years beginning January 1, 2011. Thereafter, all members shall be appointed to serve
31 four-year terms of office and said appointments shall be certified in accordance with Section
32 5 of this Act. Notwithstanding anything in this Act to the contrary, each member appointed
33 shall serve until his or her respective successor is duly appointed and qualified and takes
34 office.

SECTION 4.

(a) No person who holds elective public office or who holds office in a political party or body shall be eligible to serve as a member of the board during the term of such office, and the position of any member of the board shall be deemed vacant upon such member's qualification as a candidate for elective public office or becoming an officer of a political party or body.

(b) Members of the board must be residents of Clinch County and must have been registered voters in Clinch County for a period of at least one year prior to the date of their appointment to the election board and must be eligible to be reappointed to succeed such member.

SECTION 5.

The governing authority of Clinch County shall certify the appointment of each member of the board by filing an affidavit with the clerk of the superior court no later than 15 days preceding the date upon which such members are to take office, stating the name and residential address of the person appointed and certifying such member has been duly appointed as provided in this Act. The clerk of the superior court shall record each of such certificates on the minutes of the superior court and shall certify the name of each such appointed member to the Secretary of State and provide for the issuance of appropriate commissions to the members within the same time and in the same manner as provided by law for registrars.

SECTION 6.

Each member of the board shall have the right to resign at any time by giving written notice of such resignation to the governing authority of Clinch County and to the clerk of the superior court. Each member shall be subject to removal from the board by the governing authority of Clinch County at any time, for cause, after notice and hearing.

SECTION 7.

In the event a vacancy occurs in the office of any member of the board before the expiration of a term, by reason of removal, death, resignation, or otherwise, except by expiration of term, the governing authority shall appoint a successor for the remainder of the unexpired term as provided for in Section 3 of this Act. The clerk of the superior court shall be notified of such interim appointments and record and certify such appointments in the same manner as the regular appointment of members.

SECTION 8.

Before entering upon his or her duties, each member of the board shall take substantially the same oath as required by law for registrars. Each member of the board shall have the same exemptions from arrest as registrars.

SECTION 9.

(a) The board shall be authorized and empowered to organize itself, determine its procedural rules and regulations, adopt bylaws, specify functions and duties of its employees, and otherwise take such actions as are appropriate to the management of its affairs; provided, however, that no such action shall conflict with state law.

(b) Action and decision by the board shall be by a majority of the members of the board. The first members of the board under this Act shall be appointed as provided in this Act to take office on July 1, 2007. The board shall take no official action until all members have been certified to the clerk of the Superior Court of Clinch County.

(c) The board shall fix and establish, by appropriate resolution entered on its minutes, directives governing the execution of matters within its jurisdiction. Any special called meeting shall be called by the chairperson or any two members of the board. The board shall maintain a written record of policy decisions amended to include additions or deletions. Such written records shall be made available to the public for review.

SECTION 10.

The board shall have the authority to contract with any municipality or governmental authority located within Clinch County for the holding by the board of any primary or election to be conducted within such municipality or governmental authority and as such, shall have the authority to serve as municipal registrar. The board shall have the authority to enter into contracts with others for the performance of duties and functions which are not required to be personally performed by the board members.

SECTION 11.

Any rule or regulation promulgated by a county executive committee of a political party under the provisions of subsection (c) of Code Section 21-2-111 of the O.C.G.A. with regard to the conduct of primaries shall be null and void if they are in conflict with a valid rule or regulation of the board.

SECTION 12.

Nothing in this Act shall be construed to require or prohibit joint primaries or to require or prohibit the commissioners or any other public agency to bear any expense of conducting primaries not otherwise required by law.

SECTION 13.

With the approval of the Clinch County Board of Commissioners, the board shall be authorized to expend public funds for the purpose of preparing and distributing material solely to inform and instruct electors of the county adequately with regard to elections. No material distributed by the board shall contain or express, in any manner or form, any commentary or expression of opinion or request for support with respect to any political issue or matter of political concern.

SECTION 14.

(a) The board shall be authorized to appoint an election supervisor to generally supervise, direct, and control the administration of the affairs of the board pursuant to law and duly adopted resolutions of the board. The election supervisor shall not be a member of the board. The election supervisor shall be considered an employee of Clinch County, may be a full-time or part-time employee and, when eligible, shall be entitled to the same benefits as other employees of Clinch County. Compensation of the election supervisor shall be as established by the Clinch County Board of Commissioners.

(b) Upon approval by the governing authority of Clinch County, the board shall be authorized to appoint additional clerical assistants as needed to carry out the duties and functions of the board. At the option of the Clinch County Board of Commissioners, all such clerical assistants may be considered to be employees of Clinch County and, when eligible, shall be entitled to the same benefits as other employees of Clinch County. Such assistants may be part time or full time, at the option of the board of commissioners. Compensation of all employees shall be as established by the board of commissioners. The board of commissioners may, at its option, resolve that certain part-time workers shall not be employees of Clinch County but shall be persons with whom the election board shall contract with to perform the duties and functions needed by the board pursuant to law and duly adopted resolutions of the board. Compensation of any nonemployees shall be established by the Clinch County Board of Commissioners.

(c) Consistent with Section 15 of this Act, in addition to receiving compensation for attendance at meetings of the board and expense reimbursement for expenses incurred while on the business of the board, members of the board shall be authorized to perform other

1 duties relative to the operation of the board and may be compensated for the performance of
2 such other duties as established by the board of commissioners.

3 **SECTION 15.**

4 Compensation for the members of the board, election supervisor, clerical assistants, and other
5 employees and contractual sums shall be fixed by the governing authority of Clinch County.
6 Such compensation shall be paid wholly from county funds.

7 **SECTION 16.**

8 The governing authority of Clinch County shall provide the board with such proper and
9 suitable offices, equipment, materials, and supplies and, if necessary, with such clerical
10 assistance and other employees as the governing authority of Clinch County deems
11 appropriate. The Clinch County Board of Commissioners may contract with others to
12 provide the same.

13 **SECTION 17.**

14 Upon this Act becoming fully effective, the superintendent of elections of Clinch County and
15 the board of registrars of Clinch County shall deliver to the board all equipment, supplies,
16 materials, books, papers, records, and facilities pertaining to such powers and duties and
17 thereafter shall be relieved of all powers and duties to which the board succeeds by the
18 provisions of this Act.

19 **SECTION 18.**

20 The Clinch County Board of Commissioners shall cause, through its legal counsel, this Act
21 to be submitted for preclearance under Section 5 of the federal Voting Rights Act of 1965,
22 as amended, within 45 days after the date on which this Act is approved by the Governor or
23 otherwise becomes law without such approval.

24 **SECTION 19.**

25 This Act shall become effective upon its approval by the Governor or upon its becoming law
26 without such approval for purposes of making initial appointments to the board only. This
27 Act shall become fully effective on the first day of the second month following its approval.

28 **SECTION 20.**

29 All laws and parts of laws in conflict with this Act are repealed.